

Appl. No. 10/708,558
Docket No. 144441/C3EM-0101

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REMARKS / ARGUMENTS

Status of Claims

Claims 1-25 are pending in the application. Claims 1, 2, 5-10 13-15 and 25 stand rejected. Claims 16-24 are allowed. Claims 3, 4, 11 and 12 are objected to as being dependent upon a rejected claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicant appreciates the Examiner's notation of the allowable claims. Applicant has canceled Claims 1 and 2, and has amended Claims 3-10 and 25, leaving Claims 3-25 for consideration upon entry of the present Amendment.

Applicant respectfully submits that the rejections under 35 U.S.C. §103(a), have been traversed, that no new matter has been entered, and that the application is in condition for allowance.

Rejections Under 35 U.S.C. §103(a)

Claims 1, 2, 5-10, 13-15 and 25 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Turner (U.S. Patent No. 6,591,854, hereinafter Turner) in view of Paul (U.S. Patent No. 4,372,334, hereinafter Paul) and either of Siebert et al. (U.S. Patent No. 4,247,311, hereinafter Siebert) or Ikeda et al. (U.S. Patent No. 5,819,683, hereinafter Ikeda).

Applicant traverses these rejections for the following reasons.

Applicant respectfully submits that the obviousness rejection based on the References is improper as the References fail to teach or suggest each and every element of the instant invention in such a manner as to perform as the claimed invention performs. For an obviousness rejection to be proper, the Examiner must meet the burden of establishing a prima facie case of obviousness. *In re Fine*, 5 U.S.P.Q.2d 1596, 1598 (Fed. Cir. 1988). The Examiner must meet the burden of establishing that all elements of the invention are taught or suggested in the prior art. MPEP §2143.03.

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Regarding Claim 1 and claims dependent therefrom

Claim 3 is directed to allowable subject matter.

Applicant has canceled Claims 1 and 2, and has rewritten Claim 3 in independent form including all of the limitations of the parent claim and intervening claim.

Applicant has amended Claims 4-10 for proper dependency.

Dependent claims inherit all of the limitations of the respective parent claim and any intervening claim.

In view of the amendments and the allowability of Claim 3, Applicant submits that Claim 3 and claims dependent therefrom are allowable.

Regarding Claim 25

Applicant has amended Claim 25 to now recite, inter alia,

"...wherein the means to switchably direct a flow path also prevents blockage of the directed flow path to the vent in fluid communication with the coupled first and second outlets."

Here, Applicant not only claims a means to switchably direct a flow path, but also a means to switchably direct a flow path that also prevents blockage of the directed flow path. No new matter has been added, as the application as originally filed describes valves that serve to switchably direct a flow path and prevent blockage of the flow path.

In alleging obviousness, the Examiner remarks that Siebert shows screens 25 to prevent blockage of flow, which Applicant submits is substantially different from the claimed invention, since the Siebert screens do not themselves provide means to switchably direct the flow path. In the claimed invention as amended, it is the means to switchably direct a flow path that prevents blockage of the directed flow path, which is contrary to Siebert.

In view of the foregoing, Applicant submits that Siebert fails to cure the deficiencies of Turner and Paul, and therefore a prima facie case of obviousness cannot be established.

In view of the foregoing, Applicant submits that the References fail to teach or suggest each and every element of the claimed invention and are therefore wholly

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inadequate in their teaching of the claimed invention as a whole, fail to motivate one skilled in the art to do what the patent Applicant has done, fail to offer any reasonable expectation of success in combining the References to perform as the claimed invention performs, and discloses a substantially different invention from the claimed invention, and therefore cannot properly be used to establish a prima facie case of obviousness. Accordingly, Applicant respectfully requests reconsideration and withdrawal of all rejections under 35 U.S.C. §103(a), which Applicant considers to be traversed.

If a communication with Applicant's Attorneys would assist in advancing this case to allowance, the Examiner is cordially invited to contact the undersigned so that any such issues may be promptly resolved.

The Commissioner is hereby authorized to charge any additional fees that may be required for this amendment, or credit any overpayment, to Deposit Account No. 07-0845.

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In the event that an extension of time is required, or may be required in addition to that requested in a petition for extension of time, the Commissioner is requested to grant a petition for that extension of time that is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to the above-identified Deposit Account.

Respectfully submitted,

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